

1 UNITED STATES OF AMERICA  
2 UNITED STATES DISTRICT COURT  
3 SOUTHERN DISTRICT OF CALIFORNIA

4 - - -  
5 HONORABLE WILLIAM V. GALLO  
6 UNITED STATES MAGISTRATE JUDGE PRESIDING  
7 - - -

8 UNITED STATES OF AMERICA, )  
9 )  
10 PLAINTIFF, )  
11 )  
12 VS. ) NO.10CR1372W  
13 )  
14 JONATHAN LEAL-DEL CARMEN, )  
15 )  
16 DEFENDANT. )  
17 \_\_\_\_\_ )

18 **MOTION HEARING**

19 REPORTER'S TRANSCRIPT OF PROCEEDINGS  
20 **MAY 11, 2010**  
21 SAN DIEGO, CALIFORNIA

22 MELISSA A. PIERSON, CSR 12499, RPR  
23 FEDERAL OFFICIAL COURT REPORTER  
24 940 FRONT STREET, ROOM 3155  
25 SAN DIEGO, CALIFORNIA 92101  
PH: (619) 702-7508  
PIERSON1121@SBCGLOBAL.NET

1 APPEARANCES OF COUNSEL:

2 ON BEHALF OF PLAINTIFF:

3 LAURA DUFFY  
4 UNITED STATES ATTORNEY  
5 BY: MR. STEVE MILLER, ESQ.  
6 ASSISTANT UNITED STATES ATTORNEYS  
880 FRONT STREET  
FIFTH FLOOR  
SAN DIEGO, CA 92101

7 ON BEHALF OF DEFENDANT DEL CARMEN:

8 FEDERAL DEFENDERS OF SAN DIEGO  
9 BY: MR. PAUL BARR, ESQ.  
10 C/O: MR. HANNI FAKHOURY, ESQ.  
225 W. BROADWAY  
ST. 900  
SAN DIEGO, CA 92101  
(619) 234-8467

11 ON BEHALF OF DEFENDANT GOMEZ:

12 MR. ROBERT CARRIEDO, ESQ.  
13 105 W. "F" STREET  
ST. 300  
14 SAN DIEGO, CA 92101  
(619) 232-0900

15 ON BEHALF OF MATERIAL WITNESSES:

16 MR. THOMAS G. GILMORE, ESQ.  
17 14020 LAKE POWAY ROAD  
POWAY, CA 92064  
18 (858) 922-0826  
19  
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25

1 SAN DIEGO, CALIFORNIA; TUESDAY, MAY 11, 2010

2 - - -

3 (COURT IN SESSION AT 2:00 P.M.)

4 MADAM CLERK: 10CR1372, UNITED STATES OF AMERICA  
5 VERSUS JONATHAN LEAL-DEL CARMEN AND DOMINGO GOMEZ-AGUILAR.

6 MR. MILLER: STEVE MILLER FOR THE UNITED STATES.

7 THE COURT: GOOD AFTERNOON.

8 MR. GILMORE: GOOD AFTERNOON, YOUR HONOR, TOM  
9 GILMORE ON BEHALF OF THE MATERIAL WITNESSES AND MOVING PARTY.

10 MR. BARR: GOOD AFTERNOON, PAUL BARR, FEDERAL  
11 DEFENDERS, ON BEHALF OF MY COLLEAGUE, HANNI FAKHOURY, FOR MR.  
12 LEAL-DEL CARMEN.

13 MR. CARRIEDO: GOOD AFTERNOON, YOUR HONOR, ROBERT  
14 CARRIEDO ON BEHALF OF MR. GOMEZ. MR. GOMEZ IS PRESENT BEFORE  
15 THE COURT IN CUSTODY.

16 THE COURT: GOOD AFTERNOON. MR. GILMORE.

17 MR. GILMORE: THANK YOU, YOUR HONOR. THIS IS A  
18 STANDARD MAT WIT ORDER WHICH CONTROLLING LAW IN THE CASE,  
19 WHICH IS DIRECTLY ON POINT TO THIS CASE MANDATES THAT MY  
20 CLIENTS MUST BE SENT BACK AFTER THEIR DEPOSITION HAS BEEN  
21 TAKEN TO PRESERVE THEIR TESTIMONY FOR THE BENEFIT OF ALL  
22 PARTIES. I'VE SUBMITTED MY POINTS AND AUTHORITIES, BUT I  
23 ASSUME YOUR HONOR IS AWARE OF THE TORRES-RUIZ CASE, WHICH IS  
24 THE NINTH CIRCUIT LAW THAT IS BINDING IN THIS TYPE OF CASE.

25 I SHOULD ALSO MENTION THAT JUST TODAY THE BOND

1 APPLICATION I FINALLY GOT BACK FROM ONE SURETY, WHICH I'LL  
2 SUBMIT TODAY. AND IT LOOKS LIKE A GOOD SURETY, WHICH WOULD  
3 EVEN INCREASE THE REASONS TO AT LEAST RELEASE THE OTHER TWO.  
4 THE DEFENSE AND PROSECUTION WOULD HAVE A LIVE WITNESS, IF  
5 NECESSARY, IN THE FUTURE. I WILL SUBMIT ON THE PLEADINGS,  
6 YOUR HONOR.

7 THE COURT: ALL RIGHT. LET ME BACK UP JUST A  
8 MOMENT. MR. LEAL-DEL CARMEN, SIR, YOUR ATTORNEY, MR.  
9 FAKHOURY, IS UNABLE TO BE PRESENT, AND I SHOULD HAVE ASKED  
10 YOU THIS AT THE OUTSET. MR. BARR IS ONE OF HIS COLLEAGUES,  
11 THERE AT THE EDGE OF THE TABLE, HAS SPECIALLY AGREED TO  
12 APPEAR IN HIS BEHALF FOR THE PURPOSES OF REPRESENTING YOU  
13 WITH RESPECT TO THIS MOTION TO TAKE THE DEPOSITION OF SOME  
14 MATERIAL WITNESSES. WE WON'T GO ANY FURTHER, SIR, UNLESS YOU  
15 CONSENT AND AGREE TO MR. BARR'S REPRESENTATION HERE THIS  
16 AFTERNOON IN PLACE OF MR. FAKHOURY, AND ONLY FOR THE PURPOSES  
17 OF TODAY'S HEARING. DO YOU CONSENT AND AGREE TO MR. BARR  
18 STANDING IN FOR MR. FAKHOURY AT THIS TIME?

19 DEFT. LEAL-DEL CARMEN: YES.

20 THE COURT: OKAY. WITH THAT OUT OF THE WAY,  
21 MR. BARR, YOUR RESPONSE. I HAVE READ MR. FAKHOURY'S WRITTEN  
22 RESPONSE.

23 MR. BARR: YES, YOUR HONOR, I THINK I WILL  
24 ESSENTIALLY REST ON THE PAPERS SUBMITTED BY MR. FAKHOURY.  
25 ESSENTIALLY, THE ARGUMENT IS MR. LEAL-DEL CARMEN'S SIXTH

1 AMENDMENT RIGHTS IN THIS PARTICULAR INSTANCE OUTWEIGH THE  
2 PARTICULAR CONCERNS OF THE MATERIAL WITNESSES, THAT THERE HAS  
3 BEEN NO SHOWING OF EXCEPTIONAL NEED FOR THESE INDIVIDUALS OR  
4 THIS INDIVIDUAL TO BE RETURNED TO MEXICO ABSENT SOME  
5 INABILITY TO GET OUT ON BOND, OR ON THE OTHER HAND, TO REMAIN  
6 IN CUSTODY DURING THE PENDENCY OF THIS MATTER.

7 THE COURT: UNDERSTAND. OKAY. MR. CARRIEDO, DO  
8 YOU JOIN IN THIS MOTION?

9 MR. CARRIEDO: ANY OBJECTION FROM MR. FAKHOURY --

10 THE COURT: YES, THAT'S WHAT I MEANT, DO YOU JOIN  
11 IN THE OBJECTION?

12 MR. CARRIEDO: YES. I WOULD LIKE TO ADD, YOUR  
13 HONOR, WE HAVE BEEN UNABLE TO INTERVIEW THE MATERIAL  
14 WITNESSES AT ALL. THOUGH THERE HAS BEEN A REQUEST EARLY ON.

15 THE COURT: WHAT'S THE HOLD UP? WHAT'S THE HURDLE,  
16 DO YOU KNOW?

17 MR. CARRIEDO: I BELIEVE THAT MR. GILMORE HAS  
18 INDICATED THAT HE WANTED TO WAIT UNTIL THE CLIENTS WERE  
19 RELEASED ON BOND BEFORE WE WOULD BE ABLE TO INTERVIEW THEM.  
20 I BELIEVE THAT WAS WHAT I WAS INFORMED EARLY ON. AND I  
21 BELIEVE NONE OF THEM HAVE BEEN RELEASED, SO THAT'S --

22 THE COURT: SO IN THE CLASSIC KIND OF CATCH 22.

23 MR. CARRIEDO: YES. I ASSUME WITH THAT CAVEAT, I  
24 BELIEVE THAT THE DEPOSITION WILL PROBABLY LAST A LITTLE  
25 LONGER.

1 THE COURT: IT COULD, CERTAINLY COULD.

2 IF I'M NOT GOING -- IF YOU CARE TO ANSWER THIS,  
3 FINE, IF YOU CARE TO DEFER, I WOULD CERTAINLY APPRECIATE IT.  
4 IF THERE WAS TO BE AN ALLOWANCE FOR AN INTERVIEW PRIOR OR AT  
5 YOUR REQUEST AND AS SOON AS POSSIBLE, WOULD YOUR POSITION  
6 WITH RESPECT TO THE DEPOSITION CHANGE AT ALL? I KNOW IT'S A  
7 HYPOTHETICAL, AND I'M ASKING YOU TO SPECULATE, BUT KNOWING  
8 KIND OF WHAT THE MATERIAL WITNESSES WOULD SAY OR WOULDN'T  
9 SAY, WOULD YOUR POSITION CHANGE?

10 MR. CARRIEDO: I REALLY COULDN'T ANSWER THAT  
11 QUESTION --

12 THE COURT: FAIR ENOUGH.

13 MR. CARRIEDO: -- WITHOUT MORE.

14 THE COURT: WITHOUT KNOWING WHAT THEY WOULD SAY.  
15 RIGHT. FAIR ENOUGH. MR. BARR?

16 MR. BARR: I THINK, YOUR HONOR, SIMPLY THAT IT  
17 DOESN'T ADDRESS THE PRIMARY CONCERN WHICH IS THE SIXTH  
18 AMENDMENT.

19 THE COURT: CONFIDENTIAL, I UNDERSTAND.  
20 MR. MILLER.

21 MR. GILMORE: YES, YOUR HONOR, AS FAR AS COUNSEL  
22 ARGUING ABOUT SIXTH AMENDMENT, HE'S ABSOLUTELY CORRECT THEY  
23 HAVE THAT RIGHT. THESE CASES ARE CONTROLLING, HAVE DECIDED  
24 THAT IN THIS SITUATION THE BALANCING OF RIGHTS FAVORS THE  
25 MATERIAL WITNESS IN THIS CASE.

1 AS FAR AS THE INTERVIEWING, UNFORTUNATELY WHAT HAS  
2 HAPPENED, IT HAS BEEN MY UNFORTUNATE EXPERIENCE THAT WHEN I  
3 ALLOW THE INTERVIEWS OF MY CLIENTS WHO ARE NOT OBLIGATED TO  
4 BE INTERVIEWED BY ANYONE --

5 THE COURT: SURE.

6 MR. GILMORE: -- BUT WHEN I ALLOW IT, AND THEN WE  
7 HAVE A DEPOSITION, AND THEN THERE IS AN OBJECTION TO THEIR  
8 RELEASE AFTER THE DEPOSITION, THE REASON GIVEN IS THAT MY  
9 CLIENTS TESTIFIED DIFFERENTLY IN A DEPOSITION THAN THEY  
10 TESTIFIED TO AN INVESTIGATOR DURING AN INTERVIEW. AND BY  
11 COOPERATING WITH THE DEFENSE, WHICH THEY USUALLY LIKE TO DO,  
12 I HAVE OCCASIONALLY HAD MAGISTRATE'S REFUSE TO RELEASE THE  
13 WITNESSES BECAUSE OF THAT COOPERATION. THEREFORE, I CAN'T DO  
14 IT, IN GOOD CONSCIOUS AND GOOD PRACTICE, TO MY CLIENTS UNTIL  
15 THEY ARE OUT ON BOND. ONCE THEY ARE OUT ON BOND, I HAVE NO  
16 PROBLEMS AT ALL.

17 THE COURT: OKAY. MR. MILLER.

18 MR. MILLER: I WAS DOUBTFUL AND ONE OF THE MAJOR  
19 CONCERNS THAT I HAD WAS THE DEFENSE ATTORNEY'S ABILITY TO  
20 INTERVIEW THE MATERIAL WITNESSES, BUT NOW THAT I HEAR THE  
21 EXPLANATION I CAN UNDERSTAND, ONCE BURNED-TWICE SHY.

22 THERE IS THREE OTHER THINGS THAT I WOULD LIKE TO  
23 CALL TO THIS COURT'S ATTENTION IN CONNECTION WITH THIS  
24 HEARING. THIS IS NOT A CUSTOMARY BORDER BUST TYPE OF CASE  
25 WHERE DEFENDANT IS CAUGHT DRIVING A CAR, AND WHERE THE

1 EVIDENCE IS AS EASY AS THAT. THIS IS A MATERIAL WITNESS  
2 IDENTIFYING THE DEFENDANTS AS THE FOOT GUIDES. SO, IT'S A  
3 LITTLE MORE COMPLICATED THAN THE CUSTOMARY CASE.

4 MY ADDITIONAL REQUEST IS IF ONE OF THE MATERIAL  
5 WITNESSES IS RELEASED ON BOND, I WOULD LIKE THE MAGISTRATE  
6 COURT TO PERMIT US TO DEPOSE THAT PERSON AS WELL. I'VE DONE  
7 THAT IN THE PAST AND THAT'S SERVED US WELL.

8 ALSO, IF THIS COURT DOES GRANT THE MATERIAL  
9 WITNESSES' REQUEST FOR DEPOSITIONS, SCHEDULING WISE, I WOULD  
10 ASK THAT IT BE AT LEAST TWO WEEKS FROM NOW BECAUSE I'M GOING  
11 TO BE IN TRIAL ALL NEXT WEEK.

12 THE COURT: THAT'S MY -- IN READINGS MR. FAKHOURY'S  
13 RESPONSE, I THINK I READ -- LET ME FIND IT AGAIN. THAT THERE  
14 IS CURRENTLY A SUBSTANTIVE MOTION HEARING ON JUNE THE 7TH IN  
15 FRONT OF JUDGE WHELAN.

16 MR. CARRIEDO: THAT'S CORRECT.

17 THE COURT: OFTEN TIMES, THE OUTCOME OF MOTION  
18 HEARINGS CHANGE THE POSTURE OF ONE PARTY OR THE OTHER, ONE  
19 SIDE OR THE OTHER. WHAT'S THE NATURE OF THAT MOTION HEARING?

20 MR. CARRIEDO: MOTIONS HAVE NOT BEEN FILED AT THIS  
21 MOMENT.

22 THE COURT: THEY ARE NOT DUE YET.

23 MR. BARR: NOT ONLY -- (INAUDIBLE).

24 THE COURT: BUT THERE IS A HEARING DATE OF JUNE THE  
25 7TH?



1 MR. CARRIEDO: YES.

2 THE COURT: WHICH IS SLIGHTLY LESS THAN A MONTH  
3 FROM NOW.

4 MR. CARRIEDO: RIGHT. JUDGE WHELAN, WE HAD A  
5 MOTION SETTING DATE ABOUT A WEEK AGO AND HE SET THE MOTIONS  
6 FOR JUNE 7TH.

7 THE COURT: OKAY. MY THOUGHTS ARE THIS, IS THAT  
8 MR. FAKHOURY HAD INDICATED RULE 15(A), RULE OF CRIMINAL  
9 PROCEDURE 15(A), PUTTING ASIDE THE TORRES CASE FOR A MOMENT,  
10 ADDRESSING DEPOSITIONS, IT IS TRUE THAT 15(A)(1), IN GENERAL,  
11 TALKS ABOUT EXCEPTIONAL CIRCUMSTANCES, HOWEVER, THERE IS A  
12 15(A)(2) THAT SPECIFICALLY SPEAKS TO THE DETAINING OF THE  
13 MATERIAL WITNESS DEPOSITION. WITHIN THAT PARTICULAR  
14 PARAGRAPH IT MAKES NO MENTION OF EXCEPTIONAL CIRCUMSTANCES.  
15 IT SIMPLY SAYS A WITNESS WHO'S DETAINED MAY REQUEST TO BE  
16 DEPOSED BY FILING -- GIVING NOTICE TO THE PARTIES. THE COURT  
17 MAY THEN ORDER THE MATERIAL WITNESS DEPOSITION BE TAKEN,  
18 DISCHARGE THE WITNESS AFTER THE WITNESS HAS SIGNED, UNDER  
19 OATH, THE DEPOSITION TRANSCRIPT, AND MAKES NO MENTION, AS IT  
20 DOES IN THE GENERAL SECTION, WITH RESPECT TO DEPOSITIONS  
21 ONLY, WHEN EXCEPTIONAL CIRCUMSTANCES APPEAR AND ARE BEING  
22 QUITE EASY TO INCLUDE THAT LANGUAGE IN THAT PARTICULAR  
23 SECTION RELATING TO DETAINED MATERIAL WITNESSES. I'M  
24 INCLINED TO GRANT THE MOTION, BUT NOT UNTIL -- NOT ORDER IT  
25 UNTIL AFTER THE SUBSTANTIVE MOTION HEARING HAS BEEN HELD AND

1       THERE HAS BEEN A RULING ON THAT SUBSTANTIVE MOTION AND TAKING  
2       A STATUS AT THAT TIME.   GIVEN SOME OF MR. MILLER'S COMMENTS  
3       ABOUT THIS IS NOT YOUR TYPICAL RUN-OF-THE-MILL KIND OF BORDER  
4       BUST CASE, AND IT'S SLIGHTLY MORE COMPLICATED THAN OTHERS, IN  
5       BALANCING THE RIGHTS AND NEEDS OF THE DEFENDANT AND THOSE OF  
6       THE MATERIAL WITNESSES, I DO BELIEVE ANY SIXTH AMENDMENT  
7       CONFRONTATIONAL ISSUES ARE ADEQUATELY COVERED IN THE CONFINES  
8       OF THE DEPOSITION, WHICH TYPICALLY WOULD OCCUR IN THE US  
9       ATTORNEY'S OFFICE.   TYPICALLY WOULD BE VIDEOTAPED.   THE  
10      DEFENDANTS WOULD BE PRESENT AND HAVE THE RIGHT TO CONFRONT  
11      THESE MATERIAL WITNESSES WHILE THEIR ATTORNEYS ARE  
12      CROSS-EXAMINING AND WHILE THE US ATTORNEY IS EXAMINING THE  
13      WITNESS AND BE ABLE TO PARTICIPATE AND ASSIST THEIR ATTORNEY  
14      IN THAT EXAMINATION OF THE MATERIAL WITNESSES.

15               SO, I'M INCLINED TO GRANT THE ORDER, BUT NOT ORDER  
16      THE DEPOSITION OCCUR EVEN WITHIN TWO WEEKS.   IT WOULD BE  
17      SOMETIME AFTER THE JUNE 7TH SUBSTANTIVE MOTION HEARING.   AND  
18      I KNOW JUDGE WHELAN VERY WELL, HE WILL WALK IN THERE, GIVE  
19      HIS TENTATIVE RULING BEFORE YOU EVEN OPEN UP YOUR MOUTH, ASK  
20      TO ARGUE YOUR RESPECTIVE SIDES, AND THEN AT THE END OF ALL  
21      THAT HE'S GOING TO TELL YOU WHAT HIS RULING IS.   SO, YOU ARE  
22      GOING TO HAVE A VERY QUICK RESOLUTION PENDING ANY MOTIONS TO  
23      CONTINUE FOR WHATEVER REASON.

24               WHAT I WOULD PREFER TO DO THEN, IS PUT THIS ON FOR  
25      STATUS ON JUNE 8TH, WHICH WOULD BE THE DAY AFTER.   I'M NOT

1 HERE THAT DAY.

2 MR. GILMORE: THAT WOULD BE A GOOD DAY FOR STATUS.

3 THE COURT: I'M NOT SURE WHERE I'M GOING TO BE BUT  
4 I'M NOT HERE. OKAY. WHY DON'T WE PUT IT ON FOR STATUS THEN  
5 JUNE THE 10TH, THEN, WHICH THAT IS THURSDAY.

6 WHAT I'M ALSO GOING TO ASK THE PARTIES TO DO  
7 BETWEEN NOW AND THEN IS COME UP WITH A MUTUALLY CONVENIENT  
8 DATE AFTER JUNE THE 10TH TO CONDUCT THE DEPOSITION. SO, HAVE  
9 ALL THIS PREPARED, ALL RIGHT. BECAUSE IF YOU COME IN ON JUNE  
10 10TH AND I SAY YOU ARE GOING TO DO THE DEPOSITIONS, AND IT  
11 MAY TAKE A WEEK OR TWO FOR THE PARTIES TO ARRANGE YOUR  
12 SCHEDULES, HAVE ALL OF THOSE ARRANGEMENTS BE MADE, I WANT YOU  
13 TO DO ALL THAT AND HAVE IT READY TO BE ABLE TO TELL ME WHAT  
14 THAT DATE IS SUBSEQUENT TO JUNE 10TH. IF IT'S JUNE 11TH,  
15 FINE. THE ORDER MAY BE ON JUNE THE 10TH, DEPENDING ON THE  
16 NATURE OF -- OR DEPENDING ON WHAT HAPPENED ON JUNE 7TH, THAT,  
17 NO, WE'RE NOT GOING TO DO IT JUST YET. WE'RE GOING TO DELAY  
18 IT OR MAYBE CARRY ON AND DO THE DEPOSITIONS.

19 MR. CARRIEDO: WHAT TIME ON THE 10TH?

20 THE COURT: 2:00 O'CLOCK. AND THEN, MR. MILLER,  
21 WITH RESPECT TO YOUR OTHER REQUEST ABOUT SHOULD THE MATERIAL  
22 WITNESS BE RELEASED IN THE MEANTIME BETWEEN NOW AND JUNE 10TH  
23 --

24 MR. MILLER: AND I'VE JUST SIGNED OR APPROVED THE  
25 BOND TO THAT MAT WIT.

1 THE COURT: OKAY. I THINK THAT THAT PERSON WOULD  
2 FALL WITHIN THE END OF THE ORDER TO DEPOSE THAT INDIVIDUAL --  
3 THERE IS THREE OF THEM, RIGHT? THREE MATERIAL WITNESSES  
4 RIGHT NOW?

5 MR. GILMORE: THAT'S CORRECT, YOUR HONOR, JUST  
6 BONDING ON ONE.

7 THE COURT: NO, WE'VE GOT BONDING ON ONE. THIS, OF  
8 COURSE, THE DEFENSE WILL HAVE UNTIL JUNE 10TH TO COME UP WITH  
9 SOME REASON OR OBJECTION TO THE DEPOSITION OF THAT RELEASE OR  
10 MATERIAL WITNESSES AS THERE MAY BE MORE THAN ONE BY THEN.

11 MR. GILMORE: AND HOPEFULLY BY JUNE 10TH, IF THAT  
12 PERSON IS OUT ON BOND, WE CAN ARRANGE TO HAVE HER -- HIM  
13 INTERVIEWED ALREADY BY THEN.

14 THE COURT: OKAY. ALL RIGHT. IS THAT SUFFICIENTLY  
15 MUDDY FOR EVERYONE TO UNDERSTAND? DOES EVERYONE GOT THAT?

16 MR. GILMORE: THAT'S FINE.

17 MR. BARR: JUST TO DECLARE, IS THE COURT, AT THIS  
18 TIME, RULING ON THE MOTION AND GRANTING THE MOTION?

19 THE COURT: AS I INDICATED, MY INCLINATION IS TO  
20 GRANT THE MOTION BASED UPON WHAT I SEE RIGHT NOW, BUT I WANT  
21 TO KNOW WHAT HAPPENS AT THE SUBSTANTIVE HEARING BEFORE JUDGE  
22 WHELAN BEFORE I GIVE -- ETCH THAT INTO GRANITE. BUT JUST SO  
23 THE PARTIES KNOW THAT I BELIEVE THE CONFRONTATIONAL ISSUES  
24 ARE ADEQUATELY ADDRESSED BY A DEPOSITION.

25 I ALSO BELIEVE THAT THE RULE, RULE 15(A)(2),

1 DOESN'T NECESSARILY REQUIRE EXCEPTIONAL -- OR DOESN'T REQUIRE  
2 EXCEPTIONAL CIRCUMSTANCES. I'M MINDFUL OF THE TORRES-RUIZ  
3 CASE AND WHAT IT SAYS, AND THE DISTINGUISHING FACTORS IN THAT  
4 CASE COMPARED TO THIS CASE.

5 AND MY INCLINATION IS TO GRANT THAT MOTION. BUT  
6 WITH THE CAVEAT THAT THAT RULING MAY CHANGE DEPENDING ON WHAT  
7 JUDGE WHELAN ORDERS IN THAT MOTION HEARING. IT MAY NOT  
8 CHANGE, BUT IT MAY. SO, I WANT TO SEE WHAT HAPPENS THERE  
9 FIRST.

10 MR. BARR: I UNDERSTAND, YOUR HONOR. TO THE EXTENT  
11 THAT IT'S NECESSARY, I WOULD JUST RENEW THE OBJECTION TO THE  
12 DEPOSITION AT THIS TIME, UNDERSTANDING THE COURT'S RULING  
13 CONTINGENT UPON WHAT HAPPENS --

14 THE COURT: YEAH, I UNDERSTAND. ANYTHING FURTHER?

15 MR. GILMORE: NO, YOUR HONOR. I WILL PROBABLY BE  
16 BACK IN A FEW MINUTES TO GIVE YOU THE BOND.

17 THE COURT: OKAY. I'LL QUICKLY TAKE CARE OF THAT  
18 AS SOON AS I GET OFF THE BENCH. LET ME ALSO REMIND EVERYONE  
19 WE'VE TALKED ABOUT IT, BUT THERE IS THAT MOTION HEARING AND  
20 TRIAL SETTING ON JUNE 7TH, AT 2:00 P.M., BEFORE JUDGE WHELAN.

21 SO GENTLEMEN, YOU ARE ORDERED TO APPEAR ON THAT  
22 DATE BEFORE JUDGE WHELAN, AND THEN THREE DAYS LATER, ON JUNE  
23 10TH, BEFORE ME, AT 2:00 P.M., FOR FURTHER HEARINGS WITH  
24 RESPECT TO THIS MOTION TO DEPOSE THE MATERIAL WITNESS. DO  
25 YOU EACH UNDERSTAND?

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DEFT. LEAL-DEL CARMEN: YES.

DEFT. GOMEZ: YES.

THE COURT: OKAY. THANK YOU. ANYTHING FURTHER?

MR. GILMORE: NO, YOUR HONOR.

THE COURT: ALL RIGHT. THANK YOU.

(WHICH WERE ALL THE PROCEEDINGS  
HELD IN THE ABOVE-ENTITLED CAUSE.)

